REMARKS

Claims 1-7, 12, and 14 are amended. Claims 1-15 are pending. Claims 12 and 14 are amended solely to correct typographical errors and not for reasons related to patentability.

Claim 4 stands objected to under 37 C.F.R. 1.75(c) as being in improper form. The Office Action asserts claim 4 does not refer to other claims in the alternative only. Applicant believes that claim 4 as originally presented referred to claims 1-3 in the alternatively only by using "any one of" language. Nevertheless, claim 4 has been amended to more clearly refer to other claims in the alternative only. Therefore, the objection to claim 4 should be withdrawn and the claim allowed.

Claims 1, 2, 5-8, and 12-15 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Turk (U.S. Patent No. 5,164,992) ("Turk") in view of Yamamoto (U.S. Pub. No. 2004/0145657) ("Yamamoto"). The rejection is respectfully traversed.

Claim 1, as amended, recites a face identification device comprising, *inter alia*, "detection means for detecting face images ... storage means in which a face image of a criminal suspect is previously stored ... and abstraction means for applying an abstraction process to a face image of a non-criminal suspect out of the face images detected by the detection means in order to make the face image of the non-criminal suspect unrecognizable, the abstraction means applying the abstraction process exclusively to a detected face image when the determination means determines that the detected face image is not a criminal suspect, and not applying the abstraction process to a detected face image when the determination means determines that the detected face image is a criminal suspect."

By contrast, Turk discloses a face recognition system for determining which members of a family are watching a television. The Office Action acknowledges that Turk "does not discloses abstraction means to distinguish [guests] from those in the family." (Office Action, Page 3) The Office Action misstates the purpose of the abstraction means. The abstraction means does not determine whether a detected face matches a face stored in the storage means. The determination means performs this function. Rather, the abstraction means "appl[ies] an abstraction process to a face image of a non-criminal suspect out of the face images detected by the detection means in order to make the face image of the non-criminal suspect unrecognizable...." Although the Office Action misstates the purpose of the abstraction means, the Office Action is correct that Turk does not disclose an abstraction means. Accordingly, the Office Action relies on Yamamoto in combination with Turk to meet all the limitations of claim 1. Applicant respectfully suggests that Yamamoto is not properly combinable with Turk.

"In holding an invention obvious in view of a combination of references, there must be some suggestion, motivation, or teaching in the prior art that would have led a person of ordinary skill in the art to select the references and combine them in the way that would produce the claimed invention." Karsten Mfg. Corp. v. Cleveland Golf Co., 242 F.3d 1376, 1385 (Fed. Cir. 2001). "[P]articular findings must be made as to the reason the skilled artisan, with no knowledge of the claimed invention, would have selected these components for combination in the manner claimed." In re Werner Kotzab, 217 F.3d 1365, 1371 (Fed. Cir. 2000). "The showing of motivation to combine must be clear and particular, and it must be supported by actual evidence." Teleflex, Inc. v. Ficosa North America Corp., 299 F.3d 1313, 1334 (Fed. Cir. 2002), citing In re Dembiczak, 175 F.3d 994, 999 (Fed. Cir. 1999).

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The Office Action fails to provide any such "actual evidence." Instead, the Office Action merely concludes, "[i]t would have been obvious to one having ordinary skill in the art at the time of the invention was made to include abstraction means because protect the privacy of the individuals who feels unpleasant when constantly being observe while criminals or suspicious individuals are being searched through surveillance camera...." (Office Action, Page 3) Applicant submits, however, that the Federal Circuit has held that "[b]road, conclusory statements regarding the teaching of the multiple references, standing alone, are not 'evidence.'" In re Dembiczak, 175 F.3d at 999. Because the Office Action failed to provide any "actual evidence" showing a "clear and particular" motivation to combine, the combination of the Turk and Yamamoto references is improper.

The Office Action also ignores the fact that Turk teaches away from the cited combination. "[R]eferences that teach away [from a particular combination] cannot serve to create a prima facie case of obviousness." McGinley v. Franklin Sports, Inc., 262 F.3d 1339, 1353-4 (Fed. Cir. 2001), citing In re Gurley, 27 F.3d 551, 553 (Fed. Cir. 1994). Such is the case here.

As stated above, Turk discloses a face recognition system for determining which members of a family are watching a television. This information is then used by television broadcasters to set advertising rates. According to Turk, "statistics on viewing habits" that are "complete and error free" are most desirable. (Turk, 1:40-41) Applying an abstraction means to make the face of a television viewer unrecognizable would be contrary to this objective since it would render the viewing statistics incomplete.

Moreover, even if Turk and Yamamoto were combinable, which they are not, neither reference, whether taken alone or in combination, teaches or suggests applying an abstraction process only when the detected face image is not a criminal suspect, as recited in amended claim 1. As described above, Turk teaches away from apply any abstraction process. Yamamoto teaches applying "image processing for privacy protection" based not on whether the detected face image is a criminal suspect but instead "depending on the authority of a user who views the video image." (Yamamoto, Paragraph 8) Thus, Yamamoto discloses a system in which the application of an abstraction process is dependant on the identity of the viewer rather than the identity of the subject. For at least all of these reasons, the rejection of claim 1 should be withdrawn and the claim allowed.

In rejecting claim 2, the Office Action refers to the rejection of claim 1. As detailed above, the rejection of claim 1 was improper and should be withdrawn. Additionally, claim 2 depends from claim 1 and is allowable for at least the reasons stated above with respect to claim 1 and on its own merits. Therefore, the rejection of claim 2 should be withdrawn the claim allowed.

Although the Office Action did not address claim 4 on the merits, claim 4 depends from claim 1 and is allowable for at least the reasons stated above with respect to claim 1 and on its own merits.

In rejecting claims 5-7, 10, 11, 13 and 15, the Office Action refers to the rationale for rejecting claim 1. As detailed above, the rejection of claim 1 was improper and should be withdrawn. Claims 5-7, 10, 11, 13, and 15 each recite limitations similar to claim 1 and are allowable for at least the reasons stated above with respect to claim 1

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and on their own merits. Therefore, the rejection of claims 5-7, 10, 11, 13, and 15 should be withdrawn and the claims allowed.

In rejecting claim 8, the Office Action merely refers to the rational for rejecting claim 2. As detailed above, the rejection of claim 2 was improper and should be withdrawn. Additionally, claim 8 depends from claim 7 and is allowable for at least the reasons stated above with respect to claim 7. Therefore, the rejection of claim 8 should be withdrawn and the claim allowed.

Claim 9 depends from claim 7 and is allowable for at least the reasons stated above with respect to claim 7 and on its own merits. Therefore, the rejection of claim 9 should be withdrawn and the claim allowed.

In rejecting claims 12 and 14, the Office Action refers to the rational for the rejecting claim 1. The Office Action cites Yamamoto as "implying the face image was stored in a storage medium and made unrecognizable...." (Office Action, Page 5) To the extent that claims 12 and 14 recite similar limitations as claim 1, claims 12 and 14 are allowable for at least the reasons stated above with respect to claim 1 and on their own merits. However, claims 12 and 14 recite additional limitations not recited in claim 1 and not disclosed or suggested by Yamamoto. Specifically, both claims 12 and 14 recite "reconstructing" an original image based on "stored image version data." By contrast, according to Yamamoto, video is abstracted to varying degrees depending on the authorization level of the user. (Yamamoto, Paragraphs 36-41) Thus, Yamamoto does not reconstruct an original image but rather abstracts an original image. For at least these reasons, the rejection of claims 12 and 14 should be withdrawn and the claims allowed.

Claim 3 as it depends from claim 1 and claim 3 as it depends from claim 2 are rejected under 35 U.S.C. 103(a) as being unpatentable over Turk in view of Yamamoto in further view of Lu (U.S. Pat. No. 5,771,307) ("Lu").

Claim 3 as amended recites, *inter alia*, "when said determination means determines that the detected face image is a criminal suspect, a detected face image is not applied with the abstraction process and is applied with a marker."

The Office Actions asserts that "[i]t would have been obvious ... to include a detected face image is not applied with the abstraction process and is applied with a marker because to prevent the same face to be mark again when making a second or third scan on the image to reduce processing power." (Office Action, Page 5) However, the Office Action fails to recognize that "marking" is used differently in Lu and by the claimed invention.

Lu discloses "a passive identification apparatus for identifying a predetermined individual member of a television viewing audience in a monitored view area..." (Lu, Abstract) The portion of the Lu specification cited by the Office Action reads, in relevant part, a "viewer's identity is then marked as having been ascertained. This marking ensures that an individual will not be counted twice for any given viewing event." (Lu, 22:4-7) Taken in the context of the entire Lu disclosure, it is clear Lu uses "marking" to mean setting a flag in the memory of an electronic device.

By contrast, Applicant uses "marker" to refer to a visual indication on a display. (Application, Figure 5, Element 13) The marker is not "to reduce processing power" as suggested by the Office Action. (Office Action, Page 5) Instead, the marker is intended "to make the specific person distinguishable at a glance." (Application,

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Paragraph 32) In other words, the marker of Lu is a variable in memory to facilitate processing of viewer data while the Applicant's marker is a visual indication on a display to facilitate rapid identification by a human operator. Thus, combining Lu with the other cited references does not yield the device claimed by Applicant. Moreover, as described above, Turk is not properly combinable with Yamamoto. Therefore, further combination with Lu is also improper. For at least these reasons, claim 3 should be allowed, both as it depends from claim 1 and as it depends from claim 2.

In view of the above, Applicant believes the pending application is in condition for allowance.

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Respectfully submitted,
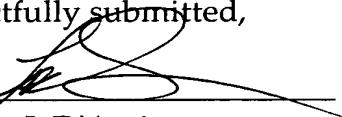
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